

## **REMARKS**

Claims 1 and 3 – 18 are pending in this application. Applicants respectfully request that the Examiner reconsider the rejection of the pending claims in light of the amendments and the following remarks.

### **35 U.S.C. § 112, Second Paragraph Rejections – Indefiniteness**

Claims 1 – 18 are rejected under the provisions of 35 U.S.C. § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter that Applicants regard as the invention.

Claims 1, 2, 4, 5, 13, 14, and 16 – 18 have been amended to address each of the Examiner's rejections. The claims have been amended to address issues, such as removal of indefinite terms, providing proper antecedent basis, and correction of dependency of claims. An attempt has been made to address each of the Examiner's rejections. Applicants respectfully request withdrawn of the rejections based upon the provisions of 35 U.S.C. § 112, second paragraph.

### **35 U.S.C. § 102(b) Rejections - Miller**

Claims 1, 12, and 13 are rejected under the provisions of 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,819,987 issued to Miller et al (hereinafter "Miller").

Claims 1, 12, and 13 have been amended to better describe more of the features of the present invention. Support for the amendments can be found in original claim 2, Figure 10, and many of the other Figures. Applicants respectfully submit that the newly amended claims contain subject matter that is patentably distinct from the subject matter disclosed in Miller.

The subject matter disclosed in Miller is substantially different from embodiments of the present invention. The goals and the means to achieve such goals are different in Miller and the present invention. An objective of Miller is to provide a spray assembly for dispensing multiple fluids from nested containers, while simultaneously venting the fluid containers (see col. 5, ll. 14 – 18 of Miller). This is different than the technical problem that is being sought to overcome in the present invention. One objective of the present invention is to reduce leakage when the spray bottle is inclined. Leakage is prevented in the present invention by providing two interconnected

Serial No. 10/530,593

containers (Q, R') that are positioned and connected through the use of a U-shape or swan neck that allows air pressure and the fluid to be dispensed to exchange to form an air bubble around a fixing point so that leakage is prevented when the dispenser is inclined. Miller discusses the need to prevent leakage from its dispenser throughout its specification. Miller's solution to this problem is use a solution that is known in the art, specifically, the use of two one-way check valves 152, 154, as described in col. 8, ll. 26 – 38 and col. 9, l. 60 – col. 10, l. 19 of Miller. In the present invention, the claimed features allow the air bubble that forms between the two containers (Q, R') to displace the fluid being dispensed and prevent the fluid from leaking through the venting hole. Another objective of the present invention is to provide a more ergonomic bottle that can be rested on a user's forearm to distribute the weight of the fluid over the forearm when using it. This feature is also missing from Miller.

Further distinctions exist between the subject matter of Miller and the present invention. For example, the present invention uses two containers (Q, R') in embodiments of its dispenser. In the present invention, the fluid being dispensed is the same in both containers when the dispenser is being used, but the fluid being dispensed is withdrawn from only one of the containers, namely the external chamber R'. Miller discloses the use of more than one container with each container containing a different fluid to be dispensed. Furthermore, each container and its associated system are isolated from each other to prevent commingling of the multiple fluids being dispensed. As another distinction, fluid being dispensed is simultaneously dispensed from each of the separate containers.

Miller does not teach, show, or suggest many of the features that are claimed in the present invention. Because more than one claimed feature is missing from Miller, Miller cannot anticipate the present invention. Accordingly, Applicants respectfully submit that the subject matter of the present invention is patentably distinct from the subject matter of Miller. Applicants request withdrawal of the rejections based upon the provisions of 35 U.S.C. §102(b).

### **35 U.S.C. § 103 Rejections – Miller in view of Kohls**

Claims 2, 3, and 5 – 8 are rejected under the provisions of 35 U.S.C. § 103(a) as being unpatentable over Miller in view of U.S. Patent No. 6,145,756 issued to Kohls et al (hereinafter "Kohls").

Claim 1 has been amended to incorporate the limitations of claim 2 therein and better describe more of the features of the present invention. Applicants respectfully submit that the spray bottle of the present invention is patentably distinct from the spray bottles described in Miller and Kohls, alone or in combination. Claim 1 recites the use of two containers (Q, R') that use an air bubble that travels from one container to the other container as the position of the dispenser is changed during use. The two containers in the present invention are connected through the u-shape or swan neck. In an upright position, air accumulates in the external chamber R' and the swan neck. When the dispenser is tilted, the fluid to be dispensed travels to the external chamber R', but moves the air bubble between the liquid and the trigger sprayer, which avoids contact with the trigger sprayer and prevents leakage. Neither reference teaches, shows, or suggests the use of two containers that are connected through a u-shape or swan-neck with a common fluid in both containers. The two containers shown in Miller are separate and are isolated until the fluids are commingled for dispensing. Because the references do not use two interconnected containers, the references cannot teach, show, or suggest the formation of an air bubble between the two containers that is used to displace the fluid being dispensed when the dispenser is in an inclined position. As another difference, neither reference withdraws the product to be dispensed from the external chamber (R'), as claimed in the present invention. As yet another difference, neither reference teaches, shows, or suggests using a container body that is shaped to facilitate resting the container body (Q) on the forearm of a user of the dispenser.

Applicants respectfully submit that neither Miller nor Kohls, alone or in combination, teach all of the claimed features of the present invention. Because at least one claimed feature of the present invention is missing from the cited references, Applicants respectfully submit that the present invention is patentably distinct from the subject matter of the cited references request withdrawal of the rejections.

\* \* \* \* \*

Applicants believe that the present pending claims are in condition for allowance. Applicants respectfully request that the Examiner reconsider the rejection of the pending claims in light of the above analysis.

\* \* \* \* \*

In order to facilitate the resolution of any questions presented by this paper, Applicants request that the Examiner directly contact the undersigned attorney by telephone at 713-787-1554 to further the discussion, reconsideration, and allowance of the claims.

Respectfully submitted,

*/kimberly l. brown/*

**Customer No. 45607**  
HOWREY LLP  
713 787 1400 (phone)  
703.336.6950 (fax)

Kimberly L. Brown  
Reg. No. 48,698  
Attorney for Assignee  
MONSANTO EUROPE S.A.

Date: November 20, 2007